

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Appeal No. 194 of 2010

Date of decision: 10.1.2011

Mansukh Stock Brokers Ltd.
(Formerly known as 'Uttam Financial Services Ltd')
Mansukh House, Plot No. 16,
Opp. Mother Dairy, Pandav Nagar,
New Delhi – 110 092.Appellant

Versus

Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G Block,
Bandra Kurla Complex, Bandra (East),
Mumbai 400 051. Respondent

Mr. Prakash Shah, Advocate for the Appellant.

Mr. Kumar Desai, Advocate with Ms. Harshada Nagare, Advocate for the
Respondent.

CORAM : Justice N. K. Sodhi, Presiding Officer
Samar Ray, Member
P. K. Malhotra, Member

Per : Justice N. K. Sodhi, Presiding Officer (Oral)

The appellant before us is Mansukh Stock Brokers Limited which was formerly known as Uttam Financial Services Limited. It is a member of the Bombay Stock Exchange Ltd. Mumbai and registered as a stockbroker with the Securities and Exchange Board of India (for short the Board). The Board carried out investigations in the trading of the scrip of K Sera Sera Productions Limited (hereinafter referred to as the company). Investigations revealed that a handful of stock brokers including the appellant executed circular trades in the scrip of the company. Some of the brokers like the appellant executed trades in their proprietary accounts while others who were a part of the circular trading had executed trades on behalf of their clients. Adjudication proceedings were initiated against all the brokers and their clients. The appellant was served with a show cause notice alleging that it had alongwith other stock brokers executed circular trades in the scrip of the company thereby violating Regulation 4 of the Securities

and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 and the code of conduct prescribed in schedule II read with Regulation 7 of the Securities and Exchange Board of India (Stockbrokers and Sub-brokers) Regulations, 1992. It may be mentioned that separate proceedings were initiated against all the stock brokers who indulged in circular trading. The appellant filed its reply and denied all the allegations. On a consideration of the material collected during the course of the investigations and the enquiry, the adjudicating officer found that the appellant alongwith several other brokers executed circular trades and violated the aforesaid provisions of law. Accordingly, by his order dated August 31, 2010 he imposed a monetary penalty of ₹ 8 lacs on the appellant. ₹ 7 lacs was imposed for executing circular trades and another ₹ 1 lac for violating the code of conduct. It is this order which is now under challenge before us.

2. We have heard the learned counsel for the parties who have taken us through the record. The data as culled out from the trade and order logs reveals that the appellant alongwith other stock brokers had executed circular trades. For instance, on June 18, 2004, one S.P.J. Stock Brokers Private Limited sold 5,000 shares of the company to the appellant who purchased them in its proprietary account. After purchase, the appellant sold these shares to another broker by the name of Sanchay Fincom Limited. Sanchay Fincom then sold these shares to another broker, Vijay Bhagwandas. Vijay Bhagwandas then sold the shares to Harikishan Hiralal another broker and Harikishan Hiralal finally sold the shares back to S.P.J. Stock Brokers Private Ltd. All these trades were executed between 11:15 hrs and 11:38 hrs i.e. within a matter of seconds. It is, thus, clear that the circle which started with S.P.J. Stock Brokers Pvt. Ltd. got completed when the shares reached back to the same broker through others including the appellant. This is not a solitary instance. Trades between these brokers had been executed in more than 200 circles. The anonymous trading system does not permit trades to be executed in circles and whenever such trades are executed, it could only be the result of manipulation which implies a prior understanding between the brokers

and the clients. Such circular trades are artificial in nature as they do not transfer the beneficial ownership in the shares traded and are meant only to create volumes on the screen of the trading system which, in turn, lures the lay investors to jump into the fray and start trading. We are, therefore, satisfied that the charges levelled against the appellant stand established on the basis of the record before us.

3. The learned counsel for the appellant has pointed out that adjudication proceedings had been initiated against S. P. J. Stock Brokers Private Limited as well which had started the circle referred to hereinabove. That broker has been awarded a penalty of ₹ 50,000/- for executing circular trades and another sum of ₹ 25,000/- for violating the code of conduct. We are unable to understand why this differentiation. The appellant as well as S. P. J. Stock Brokers Private Limited were a part of the same manipulative trading and there being no difference in their conduct, they cannot be treated differently in the matter of imposition of penalty. What is surprising is that the adjudicating officer was the same who passed the orders in the case of all these brokers. In these circumstances, we cannot but reduce the penalty to ₹ 75,000/- on the appellant as was imposed on S. P. J. Stock Brokers Private Limited. While upholding the findings of the adjudicating officer, we modify the impugned order to the extent stated above. The appeal stands disposed of accordingly with no order as to costs.

Sd/-
Justice N. K. Sodhi
Presiding Officer

Sd/-
Samar Ray
Member

Sd/-
P. K. Malhotra
Member

10.1.2011
ptm

Prepared & Compared by
PTM